

AMENDED IN SENATE SEPTEMBER 3, 1999

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JULY 6, 1999

AMENDED IN ASSEMBLY MAY 17, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1545

**Introduced by Assembly Member Correa
(Coauthor: Assembly Member Honda)**

February 26, 1999

An act to amend Sections 2725.1, 4061, 4076, 4170, and 4175 of the Business and Professions Code, relating to health practitioners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as amended, Correa. Health practitioners.

Under existing law, a nurse practitioner may not ~~authorize the distribution~~ *sign for delivery* of a complimentary sample of a dangerous drug or dangerous device; may not ~~prescribe or~~ direct a pharmacist to dispense a trade name or generic drug; ~~personally furnish dangerous drugs prescribed by them use a dispensing device; or dispense hand~~ drugs or dangerous devices to patients in his or her office or place of practice, *as specified*.

This bill would authorize a nurse practitioner or, *in some instances*, a physician assistant, to perform the above services, and would make corresponding changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2725.1 of the Business and
2 Professions Code is amended to read:

3 2725.1. Notwithstanding any other provision of law, a
4 registered nurse may dispense drugs or devices upon an
5 order by a licensed physician and surgeon when the nurse
6 is functioning within a licensed clinic as defined in
7 paragraphs (1) and (2) of subdivision (a) of Section 1204
8 of, or within a clinic as defined in subdivision (b) or (c)
9 of Section 1206, of the Health and Safety Code.

10 No clinic shall employ a registered nurse to perform
11 dispensing duties exclusively. No registered nurse shall
12 dispense drugs in a pharmacy, keep a pharmacy, open
13 shop, or drugstore for the retailing of drugs or poisons. No
14 registered nurse shall compound drugs. Dispensing of
15 drugs by a registered nurse, except a nurse practitioner
16 who functions pursuant to a standardized procedure
17 described in Section 2836.1, or protocol, shall not include
18 substances included in the California Uniform Controlled
19 Substances Act (Division 10 (commencing with Section
20 11000) of the Health and Safety Code). Nothing in this
21 section shall exempt a clinic from the provisions of Article
22 3.5 (commencing with Section 4063) of Chapter 9.

23 SEC. 2. Section 4061 of the Business and Professions
24 Code is amended to read:

25 4061. No manufacturer's sales representative shall
26 distribute any dangerous drug or dangerous device as a
27 complimentary sample without the written request of a
28 physician, dentist, podiatrist, or veterinarian. However, a
29 nurse practitioner who functions pursuant to a
30 standardized procedure described in Section 2836.1, or
31 protocol, or physician assistant who functions pursuant to
32 Section 3502.1 may sign for the delivery or receipt of



1 complimentary samples of a dangerous drug or
2 dangerous device that has been requested in writing by
3 his or her supervising physician. Each written request
4 shall contain the names and addresses of the supplier and
5 the requester, the name and quantity of the specific
6 dangerous drug desired, the name of the nurse
7 practitioner or physician assistant, if applicable, receiving
8 the samples pursuant to this section, the date of receipt,
9 and the name and quantity of the dangerous drugs or
10 dangerous devices provided. These records shall be
11 preserved by the supplier with the records required by
12 Section 4059.

13 SEC. 3. Section 4076 of the Business and Professions
14 Code is amended to read:

15 4076. (a) A pharmacist shall not dispense any
16 prescription except in a container that meets the
17 requirements of state and federal law and is correctly
18 labeled with all of the following:

19 (1) Except where the prescriber; *or* nurse practitioner
20 who functions pursuant to a standardized procedure
21 described in Section 2836.1, or protocol, or physician
22 assistant who functions pursuant to Section 3502.1 orders
23 otherwise, either the manufacturer's trade name of the
24 drug or the generic name and the name of the
25 manufacturer. Commonly used abbreviations may be
26 used. Preparations containing two or more active
27 ingredients may be identified by the manufacturer's
28 trade name or the commonly used name or the principal
29 active ingredients.

30 (2) The directions for the use of the drug.

31 (3) The name of the patient or patients.

32 (4) The name of the prescriber and, if applicable, the
33 nurse practitioner who functions pursuant to a
34 standardized procedure described in Section 2836.1, or
35 protocol, or physician assistant who functions pursuant to
36 Section 3502.1.

37 (5) The date of issue.

38 (6) The name and address of the pharmacy, and
39 prescription number or other means of identifying the
40 prescription.

1 (7) The strength of the drug or drugs dispensed.

2 (8) The quantity of the drug or drugs dispensed.

3 (9) The expiration date of the effectiveness of the drug
4 dispensed.

5 (10) The condition for which the drug was prescribed
6 if requested by the patient and the condition is indicated
7 on the prescription.

8 (b) If a pharmacist dispenses a prescribed drug by
9 means of a unit dose medication system, as defined by
10 administrative regulation, for a patient in a skilled
11 nursing, intermediate care, or other health care facility,
12 the requirements of this section will be satisfied if the unit
13 dose medication system contains the aforementioned
14 information or the information is otherwise readily
15 available at the time of drug administration.

16 (c) If a pharmacist dispenses a dangerous drug or
17 device in a facility licensed pursuant to Section 1250 of the
18 Health and Safety Code, it is not necessary to include on
19 individual unit dose containers for a specific patient, the
20 name of the nurse practitioner who functions pursuant to
21 a standardized procedure described in Section 2836.1, or
22 protocol, or physician assistant who functions pursuant to
23 Section 3502.1.

24 SEC. 4. Section 4170 of the Business and Professions
25 Code is amended to read:

26 ~~4170. (a) No prescriber, or nurse practitioner who~~
27 ~~functions pursuant to a standardized procedure~~
28 ~~described in Section 2836.1, or protocol, or physician~~
29 ~~assistant who functions pursuant to Section 3502.1 shall~~
30 ~~dispense drugs or dangerous devices to patients in his or~~
31 ~~her office or place of practice unless all of the following~~
32 ~~conditions are met:~~

33 ~~(1) The dangerous drugs or dangerous devices are~~
34 ~~dispensed to the prescriber's, or nurse practitioner's or~~
35 ~~physician assistant's own patient and the drugs or~~
36 ~~dangerous devices are not furnished by a nurse, except a~~
37 ~~nurse practitioner, or attendant.~~

38 ~~(2) The dangerous drugs or dangerous devices are~~
39 ~~necessary in the treatment of the condition for which the~~

1 ~~prescriber, or nurse practitioner or physician assistant is~~
2 ~~attending the patient.~~

3 ~~(3) The prescriber, nurse practitioner, or physician~~
4 ~~assistant does not keep a pharmacy, open shop, or~~
5 ~~drugstore, advertised or otherwise, for the retailing of~~
6 ~~dangerous drugs, dangerous devices, or poisons.~~

7 ~~(4) The prescriber, nurse practitioner, or physician~~
8 ~~assistant fulfills all of the labeling requirements imposed~~
9 ~~upon pharmacists by Section 4076, all of the~~
10 ~~recordkeeping requirements of this chapter, and all of the~~
11 ~~packaging requirements of good pharmaceutical~~
12 ~~practice, including the use of childproof containers.~~

13 ~~(5) The prescriber, nurse practitioner, or physician~~
14 ~~assistant does not use a dispensing device unless he or she~~
15 ~~personally owns the device and the contents of the~~
16 ~~device, and personally dispenses the dangerous drugs or~~
17 ~~dangerous devices to the patient packaged, labeled, and~~
18 ~~recorded in accordance with paragraph (4). In the case~~
19 ~~of a nurse practitioner or physician assistant, the nurse~~
20 ~~practitioner or physician assistant may use a dispensing~~
21 ~~device that is owned by the supervising physician, clinic,~~
22 ~~or hospital only if the nurse practitioner or physician~~
23 ~~assistant personally dispenses the dangerous drugs or~~
24 ~~dangerous devices to the patient packaged, labeled, and~~
25 ~~recorded in accordance with paragraph (4).~~

26 ~~(6) The prescriber, nurse practitioner, or physician~~
27 ~~assistant, prior to dispensing, offers to give a written~~
28 ~~prescription to the patient that the patient may elect to~~
29 ~~have filled by the prescriber or by any pharmacy.~~

30 ~~(7) The prescriber, nurse practitioner, or physician~~
31 ~~assistant provides the patient with written disclosure that~~
32 ~~the patient has a choice between obtaining the~~
33 ~~prescription from the dispensing prescriber, nurse~~
34 ~~practitioner, or physician assistant or obtaining the~~
35 ~~prescription at a pharmacy of the patient's choice.~~

36 ~~(8) A nurse practitioner who functions pursuant to a~~
37 ~~standardized procedure described in Section 2836.1, or~~
38 ~~protocol, or a physician assistant who functions pursuant~~
39 ~~to Section 3502.1, may hand to a patient of the supervising~~
40 ~~physician and surgeon a properly labeled prescription~~

~~drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, or a pharmacist.~~

~~(9) Nothing in this article shall authorize a nurse practitioner or a physician assistant to order or own his or her own stock of dangerous drugs or dangerous devices.~~

4170. (a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

(1) The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

(2) The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

(3) The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

(5) The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(6) The prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.

(7) The prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

(8) A nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, or a physician assistant who functions pursuant to Section 3502.1, may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, or a pharmacist.

(b) The Medical Board of California, the State Board of Optometry, the Board of Dental Examiners of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Committee shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

(c) “Prescriber,” as used in this section, means a person, who holds a physician’s and surgeon’s certificate, a license to practice optometry, a license to practice dentistry, or a certificate to practice podiatry, and who is duly registered as such by the Medical Board of California, the State Board of Optometry, the Board of Dental Examiners of California, or the Board of Osteopathic Examiners of this state.

SEC. 5. Section 4175 of the Business and Professions Code is amended to read:

4175. (a) The California State Board of Pharmacy shall promptly forward to the appropriate licensing entity, including the Medical Board of California, the Board of Dental Examiners of California, the State Board of Optometry, the Osteopathic Medical Board of California, the Board of Registered Nursing, or the Physician Assistant Committee, all complaints received related to dangerous drugs or dangerous devices dispensed by a prescriber, nurse practitioner, or physician assistant pursuant to Section 4170.

(b) All complaints involving serious bodily injury due to dangerous drugs or dangerous devices dispensed by prescribers, nurse practitioners, or physician assistants pursuant to Section 4170 shall be handled by the Medical

1 Board of California, the Board of Dental Examiners of
2 California, the State Board of Optometry, the
3 Osteopathic Medical Board of California, the Board of
4 Registered Nursing, or the Physician Assistant
5 Committee as a case of greatest potential harm to a
6 patient.

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